IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

WP(C).No. 24396 of 2007(D)

PETITIONER:

S.P.ANTONY,
S/O PERU ANTONY, AGED 66 YEARS,
SRAMBICAL HOUSE, EDAYAR, BINANIPURAM.

BY ADV. SRI.SAJEEV KUMAR K.GOPAL
SRI.BINOY VASUDEVAN

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR, ERNAKULAM.

3. THE SUB INSPECTOR OF POLICE, BINANIPURAM POLICE STATION.

4. THE DISTRICT SOCIAL WELFARE OFFICER, DISTRICT SOCIAL WELFARE OFFICE, CIVIL STATION, KAKKANAD.

5. SRI.DAVIS, CHRIST CHARITABLE ORGANISATION, BINANIPURAM.

R1 TO R4 BY GOVT. PLEADER SRI.I.V.PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

WP(C) NO. 24396 OF 2007 - D

Dated this the 10th day of August, 2007

J U D G M E N T

The petitioner challenges the functioning of an orphanage conducted by the fifth respondent. According to the petitioner, all sorts of illegal activities are being done by the fifth respondent in the orphanage. The petitioner also contends that there is no licence obtained by the fifth respondent for conducting the orphanage. The petitioner therefore seeks the following reliefs:-

> "(i) Issue a writ of mandamus or other appropriate writ, order or direction directing the respondents 1 to 4 to consider Exts.P1,P3 and P4 representations submitted by the petitioner and others against the 5th respondent for conducting an orphanage under the name and style as 'Christ Charitable Organisation' at Edayar in Kadungallur Grama Panchayat;
>
> (ii) Declare that the functioning of an orphanage by the 5th respondent without obtaining a certificate of Recognition as per the provisions of the Orphanages and Other Charitable Homes (Supervision & Control) Act 1960) is illegal;

> (iii) Issue a writ of mandamus or other appropriate writ, direction or order directing the 2nd respondent to take steps pursuant to the enquiry report submitted by the 3rd respondent, based on Ext.P3 complaint, to close down the organisation of the 5th respondent which functions illegally and without any licence;"

The petitioner had earlier filed a similar writ petition and a learned Judge of this Court found that such writ petition was in the nature of Public Interest Litigation and therefore, referred the same to the court hearing public interest litigation. The Division Bench reheard the same and by Ext.P5 judgment, dismissed it stating that there is no public interest involved in the same. The petitioner cannot again go through the very same process. The petitioner could not satisfy me that the petitioner is personally affected by the conduct of the orphanage. He was aggrieved only as any other citizen of the country and therefore, the petitioner can only approach this Court by public interest litigation. Since he has already suffered Ext.P5 judgment holding that there is no public interest involved, this writ petition is

not maintainable on the same ground. That apart, I have no reason to hold that respondents 1 to 4, if satisfied about any illegal activity of the fifth respondent, would not take appropriate action in the matter.

In the above circumstances, I am not inclined to entertain this writ petition and the same is accordingly dismissed.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007